

MISDEMEANOR OFFENSES--CITATION VS. ARREST

Policy

When a misdemeanor offense is committed in an officer's presence, he/she has two options--issuing a citation or making an arrest. In most cases, issuing a citation will be in order. Refer to the "Citations" policy (LE-001.16) for procedures on issuing a citation. Officers shall physically arrest the violator when one of the following conditions arises:

1. the violator fails to identify him/herself satisfactorily;
2. the violator refuses to sign the citation;
3. the arrest or detention is necessary to prevent immediate harm to the violator or another;
4. the violator is inebriated to the extent that he/she has no control over his/her faculties, and/or the situation is such that the violator would drive a motor vehicle while under the influence of an intoxicating substance.
5. the violator may be physically arrested if he/she has no ties to the jurisdiction reasonably sufficient to assure his appearance in court.

Arrest for a misdemeanor offense committed outside the presence of any officer may not be made without an arrest warrant, even if the officer has probable cause. In a case where it is necessary to file charges on information and belief, the procedures outlined below will be followed.

Procedures

1. Do not issue the suspect a citation. Fill out a
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citation form, including all pertinent information and writing in the word "Complaint" instead of the defendant's signature. Send copies to the area and Santa Fe offices as per policy.

2. Fill out an affidavit with the magistrate, stating the evidence you have which leads you to believe the suspect has committed a misdemeanor. The affidavit should be accompanied by copies of statements, crime lab reports,

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photographs, or other information that substantiates the issuance of a complaint.

3. If the magistrate feels you have supplied adequate information for a complaint to be filed on information and believe, you may then request to sign a complaint and have a summons sent to the suspect or an arrest warrant issued.
4. Any deviation from this procedure should be approved by both the local district attorney and the assistant area supervisor.